IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE J.M.JAMES

THURSDAY, THE 11TH JANUARY 2007 / 21ST PAUSHA 1928

WP(C).No. 35322 of 2005(E)

PETITIONER:

ZEENATH.N.P, AGED 33, W/O.HASHIM,
N.P.HOUSE, CHERUVANNOOR.P.O,
KOZHIKODE DISTRICT.

BY ADV. SRI.SHAJI CHIRAYATH
SMT.JIJI M. VARKEY

RESPONDENTS:

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1. THE ASSISTANT REGISTRAR CO-OP.SOCIETIES (GENERAL), OFFICE OF THE ASSISTANT REGISTRAR (GENERAL) OF CO-OP. SOCIETIES, KOZHIKODE DISTRICT

2. THE SPECIAL SALE OFFICER,
CHELLANNUR SERVICE CO-OP.BANK GROUP,
KOZHIKODE DISTRICT-673 634.

3. FEROKE CO-OP. URBAN BANK LIMITED,
NO.2640, FEROKE.P.O, KOZHIKODE DISTRICT,
PIN-673 631, REPRESENTED BY ITS GENERAL MANAGER.

BY ADV. SRI.C.P.MOHAMMED NIAS (R3)
BY GOVT. PLEADER SRI.P.K.RAVIKRISHNAN.

THIS WRIT PETITION (CIVIL) HAVING BEEN FINALLY HEARD ON 11/01/2007, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:

APPENDIX

PETITIONER'S EXHIBITS:

Ext.P1 The true copy of the demand notice issued by the 3rd respondent.

Ext.P2 The true copy of the plaint filed by the 3rd respondent before the first respondent.

Ext.P3 The true copy of the auction sale notice issued by the second respondent.

Ext.P4 The true copy of the application to setting aside ex-parte award filed by the petitioner before the first respondent.

//True copy//

P.S. to Judge.

J.M. JAMES, J.

W.P.(C) No. 35322 of 2005

Dated this the 11th January, 2007.

J U D G M E N T

The writ petitioner is a defaulter to the 3rd respondent Bank. Therefore, to realise the defaulted amount, notice has been issued. An award was also passed which is pending execution in A.R.C.No. 281/2004-05. This Court had granted a stay of Ext.P3 notice on 19.12.2005, for a period of four months, on condition that 'the petitioner deposits amounts at the rate of Rs.75,000/= per month on or before the 20th of every month, commencing from January, 2006'.

2. When the matter came up for consideration on 6/12/2006, the learned counsel appearing for the 3rd respondent Bank submitted that the compliance of the condition of remittance was not done. However, he opted to verify the same. Therefore, the case was posted to 19.12.2006. There was no representation on 6.12.2006 and 19.12.2006.

3. Even when the matter came up today for disposal, there is no representation. However, the learned counsel appearing for the 3rd respondent Bank clarified that the condition has not been complied with, and no amount has so far been paid.

In the above facts situation, although the stay granted by this Court has expired, both because of the passing of time, and non compliance of the condition, yet I pass an order vacating the same. Accordingly, the writ petition is dismissed for default.

J.M. JAMES,
JUDGE

nj.